

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JENNA MILLET,

Plaintiff,

v.

15-CV-00773-LJV-MJR
DECISION & ORDER

SELIP & STYLIANOU LLP, *et al.*,

Defendants.

On April 7, 2015, the plaintiff, Jenna Millet, commenced this action in the City Court of Buffalo, New York, under the Fair Debt Collection Act (“FDCA”), 15 U.S.C. §§ 1692-1292p. See Docket Item 1 at 16. The defendants, Selip & Stylianou, LLP; Mitchell Selip; David Cohen; and Mitchell Slamowitz, removed the action to this Court on August 28, 2015, Docket Item 1, and answered the complaint on November 2, 2015, Docket Item 4.

On May 27, 2016, the defendants moved to dismiss for insufficient service of process. Docket Item 21. Millet responded on May 31, 2016, Docket Item 26; and the defendants replied on June 15, 2016, Docket Item 30. The Court denied the defendants’ motion on February 28, 2020. Docket Item 40. That same day, the Court also referred this case to United States Magistrate Judge Michael J. Roemer for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 41.

On March 15, 2020, the defendants moved for judgment on the pleadings. Docket Item 46. Millet failed to timely respond, and on June 7, 2020, Judge Roemer issued a written order to show cause “by 7/8/2020, why [the] defendants’ motion . . .

should not be granted.” Docket Item 49. Millet again failed to timely respond, and on July 28, 2020, Judge Roemer ordered Millet to show cause “by 8/11/2020[,] why this action should not be dismissed for failure to prosecute.” Docket Item 51. In both show cause orders, Judge Roemer cautioned that “failure to respond may result in dismissal of this case.” See Docket Items 49 and 51. To date, Millet has not responded to the defendants’ pending motion or to either of Judge Roemer’s orders.

On August 14, 2020, Judge Roemer issued a Report and Recommendation (“R&R”) finding that the matter should be dismissed under Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute. Docket Item 52. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The court must review *de novo* those portions of a magistrate judge’s recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Roemer’s R&R as well as the parties’ submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Roemer’s recommendation.

For the reasons stated above and in the R&R, the matter is DISMISSED with prejudice for failure to prosecute; the defendants' motion for judgment on the pleadings, Docket Item 46, is DENIED as moot; and the Clerk of the Court shall close the file.

SO ORDERED.

Dated: September 1, 2020
Buffalo, New York

/s/ Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE